

May 25, 2005

The Regular Meeting of the Rockingham County Board of Supervisors was held on Wednesday, May 25, 2005, at 6:00 p.m. at the Rockingham County Administration Center, Harrisonburg, Virginia. The following members were present:

PABLO CUEVAS, Election District #1
CHARLES W. AHREND, Election District #2
DEE E. FLOYD, Election District #3
WILLIAM B. KYGER, JR., Election District #4
MICHAEL A. BREEDEN, Election District #5

Also present:

JOSEPH S. PAXTON, County Administrator
G. CHRIS BROWN, County Attorney
STEPHEN G. KING, Deputy County Administrator
JAMES L. ALLMENDINGER, Director of Finance
WARREN HEIDT, Storm Water Management Program Administrator
RHONDA G. HENDERSON, Director of Planning
JENNIFER M. HOOVER, Director of Public Works
JOHN H. MECK, Development Review Manager
STEPHEN R. RIDDLEBARGER, Director of Human Resources
DIANA C. STULTZ, Zoning Administrator
ROBERT A. SYMONS, Fire and Rescue Chief
WILLIAM L. VAUGHN, Director of Community Development
DOTTIE L. BOWEN, Deputy Clerk
DONALD F. KOMARA, Resident Engineer
Virginia Department of Transportation

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CALL TO ORDER
PLEDGE OF ALLEGIANCE
INVOCATION.

Chairman Cuevas called the meeting to order at 6:00 p.m.

County Attorney Brown led the Pledge of Allegiance and County Administrator Paxton gave the Invocation.

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APPROVAL OF MINUTES.

On motion by Supervisor Floyd, seconded by Supervisor Breeden and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board approved the minutes of the Regular Meeting held on May 11, 2005.

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TRANSPORTATION DEPARTMENT.

The Board heard Mr. Komara's report on the activities of the Transportation Department.

Supervisor Kyger expressed appreciation for the improvement made to Route 42.

Supervisor Cuevas asked about the possibility of adding a centerline to Route 612, south of Route 763, in District 2. Mr. Komara explained that one of the criteria for doing so was a minimum of 900 vehicles a day, and that road has about 400 to 500 a day.

In response to an inquiry from Supervisor Breeden, Mr. Komara said he had spoken with railroad officials, who agreed that the railroad tracks are in need of repair near the Merck and Coors facilities. Mr. Komara will coordinate the repairs with the railroad and with Merck and Coors so there will be as little disruption as possible for those traveling to and from those two facilities.

In response to a question from Supervisor Floyd, Mr. Komara said he would investigate whether changes needed to be made to the left turn markings from Port Republic Road to Route 689.

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REFUNDS FOR OVERPAYMENT OF TAXES.

On motion by Supervisor Kyger, seconded by Supervisor Breeden and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; as requested by the Commissioner of the Revenue, the Board authorized the Treasurer to make the following refunds:

- Refund \$6,420.90 on vehicles for the Personal Property tax year 2004 to Farm Credit Leasing Services Corporation, 5500 S. Quebec Street, Englewood, CO

80111. The vehicles were not reported on the 2004 schedule but were listed at DMV as being in Rockingham County. Vehicle taxes were been paid in another locality. Garaging jurisdictions have been corrected at DMV.

- Refund \$169,325.88 on Machinery & Tools for the Personal Property tax year 2004 to Farm Credit Leasing, 5500 S. Quebec Street, Englewood, CO 80111. Farm Credit Leasing had a computer system error which resulted in some leased equipment being reported twice.

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RESOLUTION NO. 05-16 - ENDORSEMENT OF SHENANDOAH VALLEY RAILROAD FUNDING PROPOSAL.

The Board received and reviewed a request, from Theresa Simmons, Shenandoah Valley Railroad General Manager, for endorsement of the Railroad's funding proposal to the Virginia Department of Rail and Public Transportation.

On motion by Supervisor Kyger, seconded by Supervisor Ahrend and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board adopted the following resolution, endorsing the proposal.

RESOLUTION
RAIL PRESERVATION APPLICATION
SHENANDOAH VALLEY RAILROAD COMPANY

WHEREAS, the Shenandoah Valley Railroad Company (SVRR) desires to file an application with the Virginia Department of Rail and Public Transportation for crosstie installation and ballasting, surfacing and lining of track, and

WHEREAS, the General Assembly, through enactment of the Rail Preservation Program, provides for rehabilitation funding for improvement of railways in the Commonwealth of Virginia; and

WHEREAS, the SVRR is an important element of the Rockingham County transportation system; and

WHEREAS, the SVRR is instrumental in the economic development of the Rockingham County area, and provides relief to the highway system by transporting freight, and provides an alternate means of transporting commodities; and

WHEREAS, the County of Rockingham supports the project and the retention of the rail service along this rail corridor; and

WHEREAS, the Commonwealth Transportation Board has established procedures for all allocation and distribution of the funds provided; and

NOW, THEREFORE, BE IT RESOLVED that the County of Rockingham does hereby request the Virginia Department of Rail and Public Transportation to give priority consideration to the projects proposed by the Shenandoah Valley Railroad Company totaling \$100,000 for this funding cycle.

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COUNTY ADMINISTRATOR'S STAFF REPORT.

The Board received and reviewed Mr. Paxton's staff report dated May 20, 2005, including information on a symposium attended by him and Supervisor Kyger, the purpose of which was to develop a common base of knowledge about the real estate property tax, with the goal of developing a policy position on property tax issues for the 2006 session of the General Assembly; follow-up correspondence from the USDA Wildlife Service regarding a proposal for the counties of Rockingham, Augusta, and Rockbridge to employ a coyote trapper that would be dedicated to the three-county area; proposals received for employee health insurance; items approved by the Metropolitan Planning Organization; meeting with Elkton officials; and real estate issues.

In regard to property tax issues under discussion by General Assembly members and candidates, Chairman Cuevas asked Mr. Paxton to prepare a letter supporting the Virginia Association of Counties and Virginia Municipal League positions, to be sent to the Virginia Association of Counties, Virginia Municipal League, the County's legislative delegation, and candidates for the General Assembly.

On motion by Supervisor Breeden, seconded by Supervisor Floyd and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board designated Supervisors Ahrend and Kyger as the Board's voting delegates at the National Association of Counties Annual Meeting in July 2005.

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COUNTY ATTORNEY'S STAFF REPORT.

On motion by Supervisor Kyger, seconded by Supervisor Floyd and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; on Mr. Brown's recommendation, the Board

approved the adoption of Massanutten Technical Center's Model Procedures under the Public-Private Education Facilities and Infrastructure Act of 2002, dated May 10, 2005.

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DEPUTY COUNTY ADMINISTRATOR'S STAFF REPORT.

The Board received and reviewed Mr. King's staff report dated May 20, 2005, including information concerning progress on the Technological and Industrial Park (TIP).

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PUBLIC WORKS DIRECTOR'S STAFF REPORT.

The Board received and reviewed Ms. Hoover's staff report dated May 20, 2005, including information concerning Countryside water system; Penn Laird Drive and Water Tower Road sewer; Lakewood/Massanetta Springs pump station, Spotswood High School water tank and waterline extension, McGaheysville WWTP, Phase III expansion of the landfill, and Grassy Creek Tank.

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COMMUNITY DEVELOPMENT DIRECTOR'S STAFF REPORT.

The Board received and reviewed Mr. Vaughn's staff report dated May 19, 2005, including information concerning development activity, storm water management program, annual Comprehensive Plan review, priority projects, tabled requests, and upcoming requests.

Warren Heidt, Storm Water Management Program Administrator, made a power point presentation concerning new state requirements relating to storm water management. He reviewed the history of such programs in the state and the county. He advised that new legislation consolidates storm water management under the Virginia Department of Conservation and Recreation (DCR), intending to provide "one stop shopping" for storm water management permitting, with the plan to transfer the program to localities in the future. He noted that all programs were transferred to DCR January 1, 2005, and storm water permitting would be transferred to localities on July 1, 2006, after the State Water Control Board has defined minimum standards for the new program. He told the Board that Rockingham County, one of the localities which may adopt local stormwater programs, is required to notify DCR of the County's

intention by July 1, 2005; if no local program is adopted, DCR will administer the State stormwater requirements in the County. He reviewed the various steps that would have to be taken in the future, and recommended that the County modify its existing Erosion & Sediment Control Ordinance in order to move forward with the County establishing a local stormwater management program.

On motion by Supervisor Kyger, seconded by Supervisor Ahrend and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board authorized advertising its intention to adopt amendments to the County's existing Erosion & Sediment Control Ordinance.

On motion by Supervisor Kyger, seconded by Supervisor Ahrend and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board removed from the table S05-05, request of Luis Omar Rodriguez for a mechanic's garage (public garage) on property located on the west side of Grace Chapel Road (Route 853) approximately 100 feet west of John Wayland Highway (Route 42) in Ashby Magisterial District, Election District #4, zoned A-2. Tax Map #108-(A)-120. This request was tabled by the Board on February 9, 2005.

On motion by Supervisor Kyger, seconded by Supervisor Ahrend and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board approved S05-05, request of Luis Omar Rodriguez for a mechanic's garage (public garage), subject to the following conditions.

- (1) The use shall be located in substantial accordance with plot plan as approved by the Board of Supervisors.
- (2) Building shall comply with the Virginia Uniform Statewide Building Code, and the proper permits shall be obtained.
- (3) A commercial entrance permit shall be obtained from VDOT and presented to the Community Development Department prior to obtaining final zoning approval for a building permit. Entrance shall be installed per the VDOT permit.
- (4) In accordance with Health Department requirements the business shall be operated only by a resident of the dwelling on the property. No restroom facilities or drinking water shall be offered to the public. These requirements could be changed if the building is hooked to public sewer.
- (5) This permit is contingent upon a site plan being submitted to and approved by the County. No permits shall be issued by the Department of Community Development and no work shall be done on the property until such time as a site plan is approved.
- (6) On-premise advertising sign shall comply with the Rockingham County Code, and a permit shall be obtained for any sign.

- (7) There shall be no off-premise signs allowed unless all County and VDOT requirements for outdoor advertising signs are met.
- (8) Off-street parking shall comply with the Rockingham County Code.
- (9) All work shall be done inside the garage and all parts shall be stored inside the garage.
- (10) There shall be no junk, trash or debris, including but not limited to junked vehicles, allowed to accumulate on the property.
- (11) There shall be no more than a total of four vehicles other than the applicant's personal vehicles permitted on the property at any one time.
- (12) This business shall not begin operation until such time as a certificate of occupancy is issued by the County. No certificate of occupancy shall be issued until all other conditions of this permit are met.
- (13) There shall be no Sunday hours of operation.
- (14) There shall be no sales of automobiles from this site.

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HUMAN RESOURCES DIRECTOR'S STAFF REPORT.

The Board received and reviewed Mr. Riddlebarger's staff report dated May 25, 2005, concerning Workers Compensation Insurance renewal from the Virginia Association of Counties (VACo) Group Self Insurance Association for the year beginning July 1, 2005, advising that for the present year Rockingham County had the lowest experience modification ratio among any county in the state insured through VACo's pool.

Mr. Paxton reminded the Board of its next work session to be held at James Madison University on June 1 and 2, 2005, and provided copies of the agenda to the Board, staff and the media

The Board welcomed government students from Turner Ashby High School.

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COMMITTEE REPORTS.

The Board heard Committee Reports by Board members and staff.

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PUBLIC HEARING - SPECIAL USE PERMIT REQUESTS.

At 7:08 p.m., Chairman Cuevas declared the meeting open for a public hearing on the following special use permit requests.

Chairman Cuevas stated, "From time to time, there are assumptions by someone that may be involved in a land use matter, pro or con, where they tend to believe that the County staff works in an unfair way with a petitioner or with someone in opposition. This is not the case. County staff is here to clarify how the process works, what the ordinances are and what the options are. To assume that this Board takes action before a public hearing takes place is unfounded and is not proper to assume. We have no special interest in the outcome of a special use permit. We are here to consider land use issues. We hear both sides, talk to the Zoning Administrator and Attorney, and make a decision based on the best interests of the community which we represent. I hope you will always feel you can come to see our Zoning Administrator and any County staff member; they will be more than happy to try to explain how we have to operate in Rockingham County."

Ms. Stultz reviewed the staff recommendations for each application and changes to conditions made since the staff reports were distributed.

S05-16 Hauns LC, 11978 North Valley Pike, Broadway, request for a small engine repair shop on property located on the northeast side of North Valley Pike (Route 11) and Arkton Road (Route 798) in Plains Magisterial District, Election District #1, zoned A2. Tax Map #67-(A)-46.

Ms. Stultz said four letters of support and one letter of opposition were received by staff.

Sam Wilkins, applicant, reviewed his background in small engine repairs. He explained that his facility became too small and this would be an opportunity to expand his business. He noted that he had a customer base of about 300 customers and that he just wanted to continue the service he had offered to the community for two years.

John Hamilton said he appreciated having the business in the local community and noted that he and his neighbors were customers.

Mark Callahan said he was glad to have someone close by to do small engine repair, and he considered the operation to be an asset to the community.

Dwight Hall said his grandmother's property adjoined the site. He pointed out that she had sent in a letter in favor of the request. He stated that he and his grandmother supported the application and considered the business to be a good service to the community.

Jim Rhodes pointed out that the site was once "the hub of Tenth Legion."

Donna Neary read a statement in opposition, stating her concerns regarding noise. She said the noise disturbed her home life at all hours of the day.

Mary Alice Burch, realtor, said she had listed both the properties, the old school in which Ms. Neary lives and the site in question. She said the gas station was once a historic building and there was no engine repair done. She suggested the work be limited to inside work so there would not be noise to the neighbors.

Chairman Cuevas suggested that Ms. Burch work with Ms. Neary, her client, to see that the school building is properly shown on the tax records as a private residence since it was sold as a school.

Maria Ambrose, Ms. Neary's massage therapist, said she was treating her client for stress. She stated that people were entitled to a peaceful existence with their homes. She said that she understood that Route 11 was to be classified as a "scenic byway," and she was concerned that the small engine repair shop would jeopardize the esthetic values of the area.

S05-23 Brett Aggregates, Inc., 4794 Finlay Street, Richmond, request for a change in condition to extend pit operating hours to 11:00 pm on property located on the east side of East Side Highway (Route 340) approximately 1.5 miles north of Lynnwood Road (Route 708) in Stonewall Magisterial District, Election District #5, zoned A2. Tax Map #153-(A)-84.

Bryan Cline, Technical Service Manager for the applicant, said the extended hours would only be necessary from May to September, the summer months. He advised that, due to a change in the materials in the pit, the company had to pre-process the material and, therefore, needed the extended hours.

Rachel Lilly advised that the Lynwood community was against any expansion of the hours. She complained that the operation ran ten hours a day. She stated that much of the area is prime agricultural land near a battlefield. She expressed concern that further expansion of the hours would set a precedent for the area and other landowners would want to develop their

land. She said the mining should not be allowed on Sunday.

Graham Lilly said he had spoken with a representative of the company who told him the operation would go on for at least 25 years. He complained about the dust, noise and late hours of operation. He asked that the request be denied.

Kitty Morris said she worked during the day and did not want to have noise and dust around her when she was at home. She advised that there was asthma in her family and the dust was a health problem.

John Morris agreed with the previous speakers and noted that the noise is worse because it echoes off the mountain.

Lois Paul said she did not want to sit on her deck and hear noise and see lights until 11:00 at night.

Ms. Stultz noted that the applicant had agreed to work only on equipment repair on Sundays.

Joan Morris said the company had not stayed in compliance with the present permit.

S05-27 Bobby E. & Vickie Harlow, 2273 Irish Path, Harrisonburg, request for a public garage on property located on the west side of Irish Path Road (Route 720) approximately 1/2 mile southeast of Kratzer Road (Route 753) in Linville Magisterial District, Election District #2, zoned A2. Tax Map #79-(A)-132A.

The applicant was not present.

Ted Greenwalt said he was restoring a house nearby and would move there in three months. He asked for a limit on the number of cars and on operating hours.

Ms. Stultz said up to five vehicles would be allowed.

S05-28 Shenandoah Valley Produce Auction LLC, 6377 West Dry River Road, Dayton, request for a produce auction on property located on the southeast side of Ottobine Road (Route 257) and Dry River Road (Route 738) in Ashby Magisterial District, Election District #4, zoned A1. Tax Map #122-(A)-150.

Harry Anderson spoke of the need for the produce auction to allow the farmers some diversification and to help keep the small farms operating in the County.

A number of people in the audience rose to note their agreement with Mr. Anderson's points.

No opposition was expressed.

S05-29 The Frazier Quarry Incorporated, PO Box 588, Harrisonburg, request for an asphalt plant on property located on the south side of Buttermilk Creek Road (Route 765) approximately 1 mile east of Harpine Highway (Route 42) in Linville Magisterial District, Election District #2, zoned M1-C. Tax Map #94-(A)-4.

Robert Frazier said more loading space was needed. He advised that the plant would go directly across the road from the entrance to the existing asphalt plant.

Ted Greenwalt asked how the trucks would cross Buttermilk Creek Road. Mr. Frazier said the plant would be picked up in pieces and moved to the south side of the road. He said nothing different would happen from the standpoint of traffic that had not been going on for the last 10 to 15 years.

S05-30 Joseph P. Salyards, II, 13033 Turley Creek Lane, Broadway, request for an indoor commercial wood yard (storage of wood products) on property located on the south side of Mayland Road (Route 259) approximately 3/4 mile west of North Valley Pike (Route 11) in Plains Magisterial District, Election District #1, zoned A2. Tax Map #66-(A)-186A.

Billy Evans, property owner, said the applicant intended to store agricultural shavings and related materials. He explained that it would not be a retail business for people to come to the property. He noted that a public garage and mini-storage had been operated on the site.

Speaking for Hauns LC, Mr. Wilkins said the doors would no longer be facing Ms. Neary if the permit was approved, except for the north end of the building. He stated that about 90 percent of the work would be done inside the building.

Speaking for Brett Aggregates, Inc., Mr. Cline said there were longer operating hours last fall for about two weeks when there was a new plant manager and operations manager. He emphasized that it lasted only two weeks. He pointed out that the buffer had been increased from 200 feet

to 700 feet, from the Morris properties, for the extended hours. He noted that only maintenance and repairs would be accomplished on Sunday.

Supervisor Breeden said he would like to see the operation remain closed on Sunday. Rick Young, representing the applicant, agreed that, if they were allowed to also do maintenance from 5:00 to 8:30 p.m. that would be acceptable.

Supervisor Kyger asked if a condition that said no Sunday operations would be permitted would be acceptable. Mr. Young agreed to that proposal.

At 8:25 p.m., Chairman Cuevas called the regular meeting back to order.

Chairman Cuevas listed a number of people in the Tenth Legion community that he had spoken to who were all in favor of the Hauns LC request. He noted that a number of restrictions had been proposed by staff to assure that the operation would be a good neighbor. He advised that, when he took everything into consideration, including the fact that the area had once included a school, a gas station and a store, he believed the operation was compatible with the neighborhood. He requested a motion of approval. On motion by Supervisor Kyger, seconded by Supervisor Ahrend and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; subject to the following conditions, the Board approved S05-16 Hauns LC, 11978 North Valley Pike, Broadway, request for a small engine repair shop on property located on the northeast side of North Valley Pike (Route 11) and Arkton Road (Route 798) in Plains Magisterial District, Election District #1, zoned A2.

- (1) The use shall be located in substantial accordance with plot plan as approved by the Board of Supervisors.
- (2) Building shall comply with the Virginia Uniform Statewide Building Code, and the proper permits shall be obtained.
- (3) No mowers, etc, shall be parked on VDOT's right of way nor shall they be parked so as to impede sight distance.
- (4) VDOT reserves the right to require future entrance upgrades should conditions warrant.
- (5) In accordance with Health Department requirements, the maximum number of employees shall be two.
- (6) There shall be no public restrooms permitted.
- (7) This permit is contingent upon a site plan being submitted to and approved by the County. No permits shall be issued by the Department of Community

Development and no work shall be done on the property until such time as a site plan is approved.

- (8) All work shall be done within the building.
- (9) There shall be no running of motors outside before 7:00 am or after 8:00 pm.
- (10) There shall be no junk, trash or debris allowed to accumulate on the property including, but not limited, to lawn mowers and other power equipment.
- (11) Any sales of mowers, chain saws, etc. shall be limited to repaired equipment not picked up by its owner.
- (12) Off-street parking shall comply with the Rockingham County Code and there shall be no parking on the VDOT right-of-way.
- (13) On-premise advertising sign shall comply with the Rockingham County Code, and a permit shall be obtained for any sign.
- (14) There shall be no off-premise signs allowed unless all County and VDOT requirements for outdoor advertising signs are met.
- (15) The addition (enclosing of a portion of the canopy) shall not be placed into operation until such time as a certificate of occupancy is issued by the County. No certificate of occupancy shall be issued until all other conditions of this permit are met.
- (16) There shall be no repair work done on Sunday.

Supervisor Breeden said he had visited the Brett Aggregates site several times. He noted that there would be an additional buffer, and he was pleased that the applicant was willing to operate until 8:30 p.m. with no lights and with everything else shutting down at 5:00 p.m. He noted the additional condition of an 8 foot berm to limit the noise and no operations on Sunday. On motion by Supervisor Breeden, seconded by Supervisor Ahrend and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; subject to the following conditions, the Board approved S05-23 Brett Aggregates, Inc., 4794 Finlay Street, Richmond, request for a change in condition to extend pit operating hours to 11:00 p.m. on property located on the east side of East Side Highway (Route 340) approximately 1.5 miles north of Lynnwood Road (Route 708) in Stonewall Magisterial District, Election District #5, zoned A2.

- (1) Extended hours: May through September until 8:30 pm. Shall be limited to screening activities in the pit area on the east side of East Side Highway. Normal business hours for the rest of the operation shall be from 7:00 AM until 5:00 PM as required in the 1994 special use permit.
- (2) Any mining done during the extended hours (from 5:00 pm until 8:30 pm.) shall maintain a 700 foot buffer from the Morris properties, which are the properties to the immediate southwest of the subject property.

- (3) There shall be no mining on Sundays. However, the applicant may work on equipment maintenance and repairs during the normal business hours (7:00 am till 5:00 pm) on Sundays.
- (4) Trees will remain within the 200 foot buffer strip as agreed upon in the 1994 special use permit.
- (5) An eight-foot berm shall be constructed between the in-pit screening operation and adjoining neighbors. Said berm shall be installed prior to extending the hours of operation. The Zoning Administrator shall be notified in writing when the berm has been constructed.
- (6) No truck hauling will occur after 5:00 PM except in cases of emergency and no truck hauling from this site on Sundays.
- (7) All other conditions of the 1994 special use permit shall remain in effect and shall be enforced.
- (8) Any proven violation of these conditions shall serve to revoke special use permit #S05-23.

On motion by Supervisor Ahrend, seconded by Supervisor Kyger and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; subject to the following conditions, the Board approved S05-27 Bobby E. & Vickie Harlow, 2273 Irish Path, Harrisonburg, request for a public garage on property located on the west side of Irish Path Road (Route 720) approximately 1/2 mile southeast of Kratzer Road (Route 753) in Linville Magisterial District, Election District #2, zoned A2. Tax Map #79-(A)-132A.

- (1) The use shall be located in substantial accordance with plot plan as approved by the Board of Supervisors.
- (2) Building shall comply with the Virginia Uniform Statewide Building Code, and the proper permits shall be obtained.
- (3) VDOT reserves the right to require future entrance upgrades should conditions warrant.
- (4) All work shall be done inside the building, and there shall be no storage of parts on the outside of the garage.
- (5) No junk, trash, or debris, including but not limited to junked vehicles shall be allowed to accumulate on the property.
- (6) This permit is contingent upon a site plan being submitted to and approved by the County. No permits shall be issued by the Department of Community Development and no work shall be done on the property until such time as a site plan is approved.
- (7) On-premise advertising sign shall comply with the Rockingham County Code, and a permit shall be obtained for any sign.

- (8) There shall be no off-premise signs allowed unless all County and VDOT requirements for outdoor advertising signs are met.
- (9) Off-street parking shall comply with the Rockingham County Code.
- (10) This business shall not begin operation until a certificate of occupancy is obtained from the County. No certificate of occupancy shall be issued until all other conditions are met.
- (11) Operating hours shall be from 7 am until 8 pm with no Sunday hours of operation.

On motion by Supervisor Kyger, seconded by Supervisor Ahrend and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; subject to the following conditions, the Board approved S05-28 Shenandoah Valley Produce Auction LLC, 6377 West Dry River Road, Dayton, request for a produce auction on property located on the southeast side of Ottobine Road (Route 257) and Dry River Road (Route 738) in Ashby Magisterial District, Election District #4, zoned A1.

- (1) The use shall be located in substantial accordance with plot plan as approved by the Board of Supervisors.
- (2) The entire building shall comply with the Virginia Uniform Statewide Building Code and the proper permits shall be obtained for any alterations to this building.
- (3) This permit is contingent upon a site plan being submitted to and approved by the County. No permits shall be issued by the Department of Community Development and no work shall be done on the property until such time as a site plan is approved.
- (4) This permit shall be contingent upon VDOT being able to approve the site plan with regard to parking and the entrance. If VDOT is unable to approve the site plan, this permit shall be considered void.
- (5) As required by VDOT, the applicant shall submit with the site plan a detailed plan of how the anticipated traffic volumes shall be handled.
- (6) Off-street parking shall comply with the Rockingham County Code. There shall be no parking on the state right-of-way.
- (7) VDOT reserved the right to require turn lanes and tapers on Ottobine Road (Route 257) if the type and amount of traffic generated by this business warrants it.
- (8) On-premise advertising sign shall comply with the Rockingham County Code, and a permit shall be obtained for any sign.
- (9) There shall be no off-premise signs allowed unless all County and VDOT requirements for outdoor advertising signs are met.

- (10) The Health Department has approved portable restroom facilities for this auction. However, the County shall allow the use of portable restroom facilities for a limited amount of time. If this location becomes a permanent location (for more than 2 years) the County shall require restroom facilities in the building.
- (11) This business shall not begin operation until such time as a certificate of occupancy is issued by the County. No certificate of occupancy shall be issued until all other conditions of this permit are met.

On motion by Supervisor Ahrend, seconded by Supervisor Kyger and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; subject to the following conditions, the Board approved S05-29 The Frazier Quarry Incorporated, PO Box 588, Harrisonburg, request for an asphalt plant on property located on the south side of Buttermilk Creek Road (Route 765) approximately 1 mile east of Harpine Highway (Route 42) in Linville Magisterial District, Election District #2, zoned M1-C.

- (1) The use shall be located in substantial accordance with plot plan as approved by the Board of Supervisors.
- (2) Building shall comply with the Virginia Uniform Statewide Building Code, and the proper permits shall be obtained.
- (3) Permits shall be obtained from VDOT for the entrance. A copy of the permit shall be submitted to the Community Development Department prior to issuance of a building permit.
- (4) This permit is contingent upon applicant obtaining a sewage disposal permit and well permit from the Health Department.
- (5) This permit is contingent upon a site plan being submitted to and approved by the County. No permits shall be issued by the Department of Community Development and no work shall be done on the property until such time as a site plan is approved.
- (6) Off-street parking shall comply with the Rockingham County Code.
- (7) On-premise advertising sign shall comply with the Rockingham County Code, and a permit shall be obtained for any sign.
- (8) There shall be no off-premise signs allowed unless all County and VDOT requirements for outdoor advertising signs are met.
- (9) This business shall not begin operation until such time as a certificate of occupancy is issued by the County. No certificate of occupancy shall be issued until all other conditions of this permit are met.

Chairman Cuevas said he would like to see the Salyards work out questions concerning the entrance. He asked for a motion to table the request. On motion by Supervisor Ahrend, seconded by Supervisor Breeden and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board tabled S05-30 Joseph P. Salyards, II, 13033 Turley Creek Lane, Broadway, request for an indoor commercial wood yard (storage of wood products) on property located on the south side of Mayland Road (Route 259) approximately 3/4 mile west of North Valley Pike (Route 11) in Plains Magisterial District, Election District #1, zoned A2.

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PUBLIC HEARING - REZONING REQUESTS.

At 8:48 p.m., Chairman Cuevas declared the meeting open for a public hearing on the following rezoning requests.

Ms. Henderson reviewed the staff and Planning Commission recommendations for each application.

RZ05-11 SCAKL, L.C., 3731 Davis Road, Penn Laird, request to rezone 4.71 acres from A2 (General Agricultural) to R5 (Planned Residential) on tax parcels 95 (A) 55 and 95 (A) 55A. The site is located on the west side of North Valley Pike (Route 11) approximately 1600 feet south of Gravels Road (Route 765) in Election District #2. The Comprehensive Plan designates this area as Mixed Use. R5 allows eight dwelling units per gross acre. The applicant plans to add seven building lots to the Meadowbrook Master Plan.

The Planning Commission recommended approval, noting, "The addition of this site to the previously approved Meadowbrook single family residential community is not expected to negatively impact the surrounding area. The proposed rezoning is consistent with the Comprehensive Plan goal for accommodating residential growth on public water and sewer."

Dick Blackwell, representing the applicant, explained that the area was needed for storm water retention and to run sewer lines through. He noted that the road would be moved over slightly.

No opposition was expressed.

RZ05-12 Lake Pointe Village Property Owners Association, P O Box 11, Pleasant Valley, request to rezone 1.25 acres from R3-C (General Residential with Conditions) to

R3 (General Residential with Revised Conditions) on a portion of tax parcel 125 (A) 263. The site is located on the west side of Massanetta Springs Road (Route 687) east of Messinetta Creek Drive (Route 1073) in District #3. The Comprehensive Plan designates this area as Community Residential. R3 allows 4.3 single-family detached dwelling units or 7.9 duplex units per acre; the applicant plans to build two duplexes.

The Planning Commission recommended approval: "The request is compatible with the comprehensive Plan and will be served by public water and sewer. The proffers ensure that the new duplexes will be compatible with the existing duplex units located at Lake Point Village. Removing 1.25 acres from Lake Pointe Village's open space is not envisioned to adversely affect the recreational needs of the surrounding community."

Al Craig and Frank Campbell were present to answer questions.

No opposition was expressed.

RZ05-13 JJCARMON, L.C. P O Box 205, Mt. Crawford, request to rezone 28 acres from A2 (General Agricultural) and A1 (Prime Agricultural) to B1-C (General Business with Conditions) on tax parcels 123 (5) A and 123 (A) 71. The site is located southeast of the intersection of Cecil Wampler Road (Route 704), and South Valley Pike (Route 11) in District #3. The Comprehensive Plan designates this area as Agricultural Reserve. The applicant has not specified the proposed use(s).

John Monger was present to answer questions.

No opposition was expressed.

At 8:57 p.m., Chairman Cuevas called the regular meeting back to order.

On motion by Supervisor Ahrend, seconded by Supervisor Kyger and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board approved RZ05-11 SCAKL, L.C., 3731 Davis Road, Penn Laird, request to rezone 4.71 acres from A2 (General Agricultural) to R5 (Planned Residential) on tax parcels 95 (A) 55 and 95 (A) 55A. The site is located on the west side of North Valley Pike (Route 11) approximately 1600 feet south of Gravels Road (Route 765) in Election District #2.

On motion by Supervisor Floyd, seconded by Supervisor Ahrend and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board approved RZ05-12 Lake Pointe Village Property Owners Association, P O Box 11, Pleasant Valley, request to rezone 1.25 acres from R3-C (General Residential with Conditions) to R3 (General Residential with Revised Conditions) on a portion of tax parcel 125 (A) 263. The site is located on the west side of Massanetta Springs Road (Route 687) east of Messinetta Creek Drive (Route 1073) in District #3. This approval was given with the following proffer.

The use will be restricted to the addition of two duplexes (4 units) to Lake Pointe Village (currently 18 duplexes). These new units will become part of the association and will be covered by the building restrictions, covenants and bylaws.

On motion by Supervisor Floyd, seconded by Supervisor Kyger and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board approved RZ05-13 JJCARMON, L.C. P O Box 205, Mt. Crawford, request to rezone 28 acres from A2 (General Agricultural) and A1 (Prime Agricultural) to B1-C (General Business with Conditions) on tax parcels 123 (5) A and 123 (A) 71. The site is located southeast of the intersection of Cecil Wampler Road (Route 704), and South Valley Pike (Route 11) in District #3. This approval was given with the following proffer.

The property shall not be used for any of the following uses:

- 1. Pawn Shop*
- 2. Bus Station*
- 3. Fruit Packing Plant*
- 4. Golf driving range excepted from enclosure*
- 5. Water filling station, natural source*
- 6. Water hauling*

The following uses are deleted from the list of uses that may be permitted by special use permit under Section 17-92 and shall not be permitted uses of the property:

- 1. Boarding house operation*
- 2. Circus, carnival fair, sideshow, tent meeting, music festival of temporary nature, or flea market*
- 3. Cemetery*
- 4. Truck Terminal*
- 5. Truck Stop*

Rockingham County has water and sewer lines going through this piece of property. The owners of this property will connect to these lines.

PUBLIC HEARING - ROCKINGHAM COUNTY CODE AMENDMENTS.

At 9:00 p.m., Chairman Cuevas declared the meeting open for a public hearing on the following proposed amendments to the *Rockingham County Code*.

Ms. Stultz and Mr. Meck reviewed the proposals.

Planning Commission recommendations for A1 and A2:

April 5, 2005 -

On a motion of 3 to 0 the Planning Commission tabled the amendment to allow staff to make some changes to the language regarding 16-9.1(k), (l) and (o). The change in language to (k) shall also necessitate a change to the first sentence under 16-9.

May 3, 2005 -

With the changes proposed by staff as a result of the April Planning Commission hearing, the Commission voted 4 to 0 to recommend approval.

Planning Commission recommendations for RS-1:

May 3, 2005 -

Concurring with staff's recommendation, the Planning Commission recommended approval with a vote of 4 to 0.

Planning Commission recommendation for Final Plan Ordinance:

May 3, 2005 -

Commission voted 4-0 to recommend approval of the ordinance.

OA05-3 Amendment to Chapter 16 (Subdivision Ordinance) of the Rockingham County Code as follows:

Section 16-9(a)(1)(B)(2): Language added that land obtained through adjoining transfer may not be reconveyed as separate parcel or portion of division for three years in A2 or five years in A1, unless conveyed as another adjoining transfer.

Section 16-9(a)(1)(C)(3): Amend to allow a statement on plat as to number of dwellings on parcel subdivided by adjoining transfer.

Sections 16-9(b)(1)(h) and 16-9(b)(2)(g): Amend to allow a one time only grantor to self division of up to five (5) acres from the larger tract that had its own tax parcel number as of August 23, 2004.

Section 16-9(c)(5): Amend to eliminate three (3) year transfer waiting period following a family conveyance for property conveyed as adjoining transfer.

Section 16-9.1(g): Amend to allow subdivision plat to be based on a previous plat; requires recording information of previous plat.

Section 16-9.1(i) shall read as follows: A statement of the floodplain designation shall be included with the 100-year floodplain boundary being shown on the plat within the lot boundaries in the event any portion of the parcel falls within the 100-year floodplain. Where applicable, the floodway shall be shown with a statement that this is according to the FIRM maps. If there is no floodplain, the surveyor shall include a statement of such on the plat;

Section 16-9.1(k): Amend to require a subdivision plat to show the location, size and setbacks of all structures within 35 feet of the new property line.

Section 16-9.1(l): Amend to combine with 16-9.1(k).

Section 16-9.1(l) (old Section 16-9.1(m)): Amend to read as follows: On newly divided parcels with an existing septic and drain field on the parcel being divided and/or on residue parcels of less than five (5) acres, if the septic was installed prior to November 14, 1990, surveyor may put a statement to that effect on the plat. However, if the septic was installed after November 14, 1990, the septic and 100% reserve area shall be shown, as approved by Health Department.

Section 16-9.1(n) is now 16-9.1(m)

Section 16-9.1(o) is now 16-9.1(n)

Section 16-9.1(p) is now 16-9.1(o) and reads as follows: Any rights-of-way providing access across subject property that serve either this property or go to adjoining landowner's properties.

OA05-4 Final Plan Review Ordinance, amendment to Chapter 17 of the Zoning Ordinance, Section 17-72, to allow administrative approval of Final Plans.

OA05-5 Rural Service District (RS-1) ordinance amendment to Chapter 16 of the Subdivision Ordinance, Section 16-9, to change regulations for divisions of land in the RS-1 District. Land in RS-1 Districts will only be permitted to be subdivided under Section 16.9 - Subdivision Exceptions.

Mr. Brown reviewed changes recommended by the Planning Commission.

Ray Nicely supported the Subdivision and Zoning Ordinance amendments.

Carl Harpine said he was in favor of the amendment concerning self-transfer.

Mike Lambert reiterated Mr. Harpine's remark.

Sarah Lambert also agreed.

At 9:16 p.m., Chairman Cuevas called the regular meeting back to order.

On motion by Supervisor Ahrend, seconded by Supervisor Kyger and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board approved the following amendments to the *Rockingham County Code*.

0A05-3
ORDINANCE TO AMEND CHAPTER 16
(SUBDIVISION ORDINANCE) OF
THE ROCKINGHAM COUNTY CODE

AMEND:

Sec. 16-9. Exceptions to subdivision.

The agent may permit divisions of land into two (2) parcels as set forth below when the resultant parcels conform to the Chapter 17 (Zoning Ordinance) requirements of the zoning district in which the parcels are located and when such divisions do not circumvent the intent of this chapter as stated in section 16-2. Minimum lot size in agriculturally zoned districts shall be one (1) acre except in A-2 if the property is served by public sewer, the minimum lot size shall be 20,000 square feet, and the newly created parcel shall be connected to the public sewer. When the proposed division would create a residual parcel of less than five (5) acres, the residual parcel shall meet the access, health and safety standards as set out in this chapter. No divisions of land shall be approved that would make a lot nonconforming or which would make an already nonconforming lot more nonconforming.

(a) *Adjoining transfers or lot consolidations.*

- (1) The agent may permit a division conveying a portion of land to an immediately adjoining property owner or consolidating contiguous parcels owned by the same property owner provided the following requirements are met.
 - (A) A proposed adjoining transfer or lot consolidation located within an approved subdivision as described in Section 16-48 must meet the requirements of that section.
 - (B) The deed submitted to the agent for approval shall contain language stating:
 1. "This conveyance is an adjoining land transfer. The recordation of this deed in accordance with the subdivision regulations of Rockingham County shall operate to vacate the common property line shared by the tract to be conveyed and the tract to which it is an adjoining transfer."
 2. "Land obtained through an adjoining transfer may not be reconveyed as a separate parcel, nor may it be included as a portion of a parcel to be divided from the combined parcel created by the adjoining transfer as described in 16-

9(a)(1) above for a period of five (5) years in the A-1 district or three (3) years in the A-2 district, except that land obtained through an adjoining transfer may be conveyed through another adjoining transfer without meeting the above-required waiting period".

(C) The plat accompanying the deed submitted to the agent shall include the following:

1. The plat shall contain language stating "this conveyance is an adjoining transfer and the combined parcels shall be treated as one parcel for zoning and subdivision purposes.
2. The property line to be vacated shall be indicated on the plat by a broken line, identified with the words "property line hereby vacated" printed beside the vacated line.

(b) *Non-family divisions:*

In the agriculturally zoned districts the agent may permit one division of a parcel into two (2) parcels with the following stipulations:

(1) Prime Agricultural (A-1) District

- (a) On parcels of land that are greater than 40 acres, one non-family division shall be permitted every five (5) years except as permitted under Section 16-9(b)(1)(h) in accordance with Section 16-9(b)(1)(c). However, either the parent parcel or the newly created parcel shall be at least 40 acres and shall not be reduced below 40 acres. If the newly created parcel is 40 acres, and the parent tract becomes less than 40 acres, there shall be no further non-family division rights of the parent tract.
- (b) On parcels of 40 acres or less created after August 23, 2004, there shall be no non-family divisions permitted except as permitted under Section 16-9(b)(1)(h). The deed shall contain language stating that no further non-family divisions shall be permitted.
- (c) A special use permit for a residence has been approved on any parcel that is not improved with a residence. This would include either the newly divided parcel or the parent tract.
- (d) The parent tract shall not have been the subject of a previous division under paragraph (b) or (c) of this section 16-9 within the last five (5) years.
- (e) Adequate road access shall be provided for each resulting parcel as approved by the highway engineer. If the parcel has insufficient frontage along a state-maintained road a right-of-way meeting the requirements of either

section A or B below shall be provided to serve the divided parcels. Any right-of-way created shall meet the sight distance requirements of the VDOT Minimum Standards of Entrance to State Highways. VDOT must notify the Agent in writing of sight distance approval in order for the division to be approved.

(A) Fifty (50) foot right-of-way meeting the following standards.

(1) There may be an unlimited number of parcels on a right-of-way meeting one of the following standards:

(a) If the fifty (50) foot right-of-way is planned to be developed currently or in the future for acceptance into the state secondary highway system, the right-of-way shall be constructed to meet the geometric requirements established by VDOT's Subdivision Street Requirements.

(b) If the right-of-way is planned to be developed without acceptance into the state secondary highway system, the right-of-way shall meet minimum fire protection requirements as promulgated by the Fire Chief. A "private street connection" shall be constructed to any connecting VDOT maintained street in accordance with Standard Private Subdivision Road/Street Entrance of the VDOT Minimum Standards of Entrances to State Highways. In the event there are no future plans to take the rights-of way into the state secondary highway system for maintenance, language shall be included in the deeds of all affected parcels indicating that no request will be made of the county or VDOT to take the right-of way into the state secondary highway system until all requirements of VDOT's Subdivision Street Requirements are met.

(2) No right-of-way grade shall exceed a ten (10%) percent maximum unless an exception is made due to terrain or other mitigating circumstances in which case the grade shall be approved by VDOT and the fire chief.

(3) Entrance approval shall be submitted to the agent prior to approval of the requested division. If VDOT approves the use of an existing fifty (50) foot entrance, the agent shall receive a letter from the highway engineer stating the existing entrance is adequate for the additional division and stipulating

any improvement required by VDOT for use of the entrance. The property shall be served by the entrance shown on the plat accompanying the deed approved by the agent. If the division involves a new entrance or upgrades to the existing entrance, no certificates of occupancy shall be issued by the County until the agent receives verification from VDOT that the entrance work has been completed.

(B) Twenty (20) foot right-of-way meeting the following standards.

(1) There shall be no more than two (2) parcels per right-of-way.

(2) If a division is requested that would increase the number of parcels on a right-of-way to more than two (2), the right-of-way must be improved to meet the requirements of Section 16-9(b)(1)(d)(A).

(3) Entrance approval shall be submitted to the agent prior to approval of the requested division. If VDOT approves the use of an existing twenty (20) foot entrance, the agent must receive a letter from the highway engineer stating the existing entrance is adequate for the additional division and stipulating any improvement required by VDOT for use of the entrance. The property shall be served by the entrance shown on the plat accompanying the deed approved by the agent. If the division involves a new entrance or upgrades to the existing entrance, no certificates of occupancy shall be issued by the County until the agent receives verification from VDOT that the entrance work has been completed.

(f) An adequate sanitary waste disposal system shall have been approved by the health official. Where use of a septic system is proposed, such approval shall include a reserve drainfield capable of meeting one hundred (100%) percent of the septic requirements of the development for which the parcel is approved by the health official. The area set aside for septic drainfield use shall be clearly shown on the certified plat submitted to the agent for approval, and the plat shall contain a notation that the area so indicated shall remain open and available for use as a septic drainfield. A copy of said septic permit or certification letter shall be submitted to the agent prior to approval of the requested division. If the division involves a residence

on either the lot to be divided or the residue parcel, and that residence was constructed after November 14, 1990, when the County enacted the one hundred (100%) percent septic reserve requirement for divisions, that residence shall also be required to have one hundred (100%) percent septic reserve area. Evidence of that reserve area shall be submitted to the agent prior to approval of the new division. Such approval shall not be required when (a) the proposed parcel will be served by a community sewerage system with adequate capacity; or (b) a parcel of five (5) acres or more when the deed contains language stating that the parcel has not received approval for sanitary waste disposal and that such approval shall be obtained prior to the issuance of building permits for structures requiring such sanitary waste facilities.

- (g) No division of land shall be approved which would allow the new parcel to be served by pit privies. Additionally, if the parent tract is served by a pit privy, no divisions of land shall be approved from that parent tract until such time as an approved septic drainfield permit with one hundred (100) percent reserve area has been obtained and said drainfield installed to serve the parent tract and the agent has been provided with an operation permit issued by the health official for the newly installed system.
- (h) If there is an existing septic system on the parcel to be created or on a residual parcel containing less than five (5) acres, there shall be a statement on the plat giving the date of the septic system operation permit.
- (i) A one time only grantor to self division from the larger tract that had its own tax parcel number as of August 23, 2004 shall be permitted. A one time only division means that when a division is permitted under this 16-9(1)(h), no further grantor to self divisions shall be permitted on the subject parcel or on any other parcel owned by the grantor. The residual and resulting parcels must meet all other requirements of this section.

(2) General Agricultural (A-2) District

- (a) Any parcels of 6 acres or less created after August 23, 2004 shall have no further non-family division rights. The deed shall contain language stating that no further non-family divisions shall be permitted.
- (b) The parent tract shall not have been the subject of a previous division under paragraph (b) or (c) of this section 16-9 within the last three (3) years.

(c) Adequate road access shall be provided for each resulting parcel as approved by the highway engineer. If the parcel has insufficient frontage along a state-maintained road a right-of-way meeting either section A or B below shall be provided to serve the divided parcels. Any right-of-way created shall meet the sight distance requirements of the VDOT Minimum Standards of Entrance to State Highways. VDOT must notify the agent in writing of sight distance approval in order for the division to be approved.

(A) Fifty (50) foot right-of-way meeting the following standards.

(1) There may be an unlimited number of parcels on a right-of-way meeting one of the following standards:

(a) If the fifty (50) foot right-of-way is planned to be developed currently or in the future for acceptance into the state secondary highway system, the right-of-way shall be constructed to meet the geometric requirements established by VDOT's Subdivision Street Requirements.

(b) If the right-of-way is planned to be developed without acceptance into the state secondary highway system, the right-of-way shall meet minimum fire protection requirements as promulgated by the Fire Chief. A "private street connection" shall be constructed to any connecting VDOT maintained street in accordance with Standard Private Subdivision Road/Street Entrance of the VDOT Minimum Standards of Entrances to State Highways. In the event there are no future plans to take the rights-of way into the state secondary highway

(2) No right-of-way grade shall exceed a ten (10%) percent maximum unless an exception is made due to terrain or other mitigating circumstances in which case the grade shall be approved by VDOT and the fire chief.

(3) Entrance approval shall be submitted to the agent prior to approval of the requested division. If VDOT approves the use of an existing fifty (50) foot entrance, the agent shall receive a letter from the highway engineer stating the existing entrance is adequate for the additional division and stipulating any improvement required by VDOT for use of the entrance. The property shall be served by the entrance shown on the plat

accompanying the deed approved by the agent. If the division involves a new entrance or upgrades to the existing entrance, no certificates of occupancy shall be issued by the County until the agent receives verification from VDOT that the entrance work has been completed.

(B) Twenty (20) foot right-of-way meeting the following standards.

(1) There shall be no more than two (2) parcels per right-of-way.

(2) If a division is requested that would increase the number of parcels on a right-of-way to more than two (2), the right-of-way must be improved to meet the requirements of Section 16-9(b)(2)(d)(A).

(3) Entrance approval shall be submitted to the agent prior to approval of the requested division. If VDOT approves the use of an existing twenty (20) foot entrance, the agent shall receive a letter from the highway engineer stating the existing entrance is adequate for the additional division and stipulating any improvement required by VDOT for use of the entrance. The property shall be served by the entrance shown on the plat accompanying the deed approved by the agent. If the division involves a new entrance or upgrades to the existing entrance, no certificates of occupancy shall be issued by the County until the agent receives verification from VDOT that the entrance work has been completed.

(d) An adequate sanitary waste disposal system shall have been approved by the health official. Where use of a septic system is proposed, such approval shall include a reserve drainfield capable of meeting one hundred (100%) percent of the septic requirements of the development for which the parcel is approved by the health official. The area set aside for septic drainfield use shall be clearly shown on the certified plat submitted to the agent for approval, and the plat shall contain a notation that the area so indicated shall remain open and available for use as a septic drainfield. A copy of said septic permit or certification letter shall be submitted to the agent prior to approval of the requested division. If the division involves a residence on either the lot to be divided or the residue parcel, and that residence was constructed after November 14, 1990, when the County enacted the one hundred (100%) percent septic reserve requirement for divisions, that

residence shall also be required to have one hundred (100%) percent septic reserve area. Evidence of that reserve area shall be submitted to the agent prior to approval of the new division. Such approval shall not be required when (a) the proposed parcel will be served by a community sewerage system with adequate capacity; or (b) a parcel of five (5) acres or more when the deed contains language stating that the parcel has not received approval for sanitary waste disposal and that such approval shall be obtained prior to the issuance of building permits for structures requiring such sanitary waste facilities.

- (e) No division of land shall be approved which would allow the new parcel to be served by pit privies. Additionally, if the parent tract is served by a pit privy, no divisions of land shall be approved from that parent tract until such time as an approved septic drainfield permit with one hundred (100) percent reserve area has been obtained and said drainfield installed to serve the parent tract and the agent has been provided with an operation permit issued by the health official for the newly installed system.
- (f) If there is an existing septic system on the parcel to be created or on a residual parcel containing less than five (5) acres, there shall be a statement on the plat giving the date of the septic system operation permit.
- (g) A one time only grantor to self division from the larger tract that had its own tax parcel number as of August 23, 2004 shall be permitted. A one time only division means that when a division is permitted under this 16-9(2)(g), no further grantor to self divisions shall be permitted on the subject parcel or on any other parcel owned by the grantor. The residual and resulting parcels must meet all other requirements of this section.

All other requirements of this section shall be met.

(c) Family divisions.

In the agriculturally zoned districts a single parcel of land may be divided for conveyance to an immediate family member, provided that the grantee has not previously received any land from an immediate family member under the provisions of this section 16-9(c). An immediate family member is a natural or legally defined child, grandchild, parent, grandparent, or sibling of the grantor. If the property owner is a limited liability company whose membership consists entirely of members of an immediate family, the limited liability company may divide the lot or parcel for the purpose of sale or gift to its members in

accordance with this subsection. There shall be no division approved under this paragraph (c) that is determined by the Agent to be an attempt to circumvent the intent of either Chapter 16 (subdivision), as stated in Section 16-2, or Chapter 17 (zoning), including but not limited to any attempt by the grantor to further develop land approved under this paragraph for the benefit of any party other than the grantee or profit motivated divisions for short-term investment purposes. Divisions of land made under the provisions of this paragraph (c) shall be subject to the following requirements:

- (1) Divisions under this section 16-9(c) shall not be subject to the waiting periods set forth in section 16-9(b) of this code;
- (2) In the A-1 District any parcel of forty (40) acres or less created under this section 16-9(c) after August 23, 2004 shall have no non-family division rights under section 16-9(b). The deed shall contain language stating that no non-family divisions shall be permitted.
- (3) In the A-2 District any parcel of six (6) acres or less created under this section 16-9(c) after August 23, 2004 shall have no non-family division rights under section 16-9(b). The deed shall contain language stating that no non-family divisions shall be permitted.
- (4) Each deed submitted to the agent for approval shall be accompanied by a notarized affidavit stating that the grantee has not received any prior conveyance of land under the provisions of this section 16-9(c).
- (5) The deed and plat submitted to the agent for approval shall contain language stating that the conveyance is a family division and specifying the relationship between the grantor and grantee. The deed shall also contain language stating that the land being conveyed may not be reconveyed for a period of three (3) years, from the date on which the agent approves the division except there shall be no waiting period if the parcel or a portion of the parcel obtained through this section 16-9(c) is conveyed as an adjoining transfer. Notwithstanding provisions to the contrary, this subparagraph 16-9(c)(5) shall not prohibit a foreclosure or judicial sale, or an encumbrance with a deed of trust or mortgage, or a sale and transfer of such parcel in case of a foreclosure under a deed of trust or mortgage.
- (6) Adequate road access shall be provided for each resulting parcel as approved by the highway engineer. If the parcel has insufficient frontage along a state maintained road, a right-of-way meeting either section A or B below shall be provided to serve the divided parcels. Any right-of-way created shall meet the sight distance requirements of the VDOT Minimum Standards of Entrance to State Highways. VDOT must notify the

Agent in writing of sight distance approval in order for the division to be approved.

A. Fifty (50) foot right-of-way meeting the following standards.

- (1) There may be an unlimited number of parcels on a right-of-way meeting one of the following standards:
 - (a) If the fifty (50) foot right-of-way is planned to be developed currently or in the future for acceptance into the state secondary highway system, the right-of-way shall be constructed to meet the geometric requirements established by VDOT's Subdivision Street Requirements.
 - (b) If the right-of-way is planned to be developed without acceptance into the state secondary highway system, the street shall meet minimum fire protection requirements as promulgated by the Fire Chief. A "private street connection" shall be constructed to any connecting VDOT maintained street in accordance with Standard Private Subdivision Road/Street Entrance of the VDOT Minimum Standards of Entrances to State Highways. In the event there are no future plans to take the rights-of-way into the state secondary highway system for maintenance, language shall be included in the deeds of all affected parcels indicating that no request will be made of the county of VDOT to take the right-of-way into the state secondary highway system until all requirements of VDOT's Subdivision Street Requirements are met.
- (2) No right-of-way grade shall exceed a ten (10%) percent maximum unless an exception is made due to terrain or other mitigating circumstances in which case the grade shall be approved by VDOT and the fire chief.
- (3) Entrance permits shall be submitted to the agent prior to approval of the requested division. If VDOT approves the use of an existing fifty (50) foot entrance, the agent shall receive a letter from the highway engineer stating the existing entrance is adequate for the additional division and stipulating any improvement required by VDOT for use of the entrance. The property shall be served by the entrance shown on the plat accompanying the deed approved by the agent. If the division involves a new entrance or upgrades to the existing

entrance, no certificates of occupancy shall be issued by the county until the agent receives verification from VDOT that the entrance work has been completed.

(B) Twenty (20) foot right-of-way meeting the following standards.

(1) Divisions of land under this Section 16-9(c)(6)(B) shall be exempt from the number of parcels on a right-of-way and any division under this section that increases the number of parcels to more than two shall not be required to improve the right-of-way to meet the requirements of Section 16-9(c)(6)(A).

(2) Entrance permits shall be submitted to the agent prior to approval of the requested division. If VDOT approves the use of an existing twenty (20) foot entrance, the agent must receive a letter from the highway engineer stating the existing entrance is adequate for the additional division and stipulating any improvements required by VDOT for use of the entrance. The property shall be served by the entrance shown on the plat accompanying the deed approved by the agent. If the division involves a new entrance or upgrades to the existing entrance, no certificates of occupancy shall be issued by the County until such time as the agent receives verification from VDOT that the entrance work has been completed.

(7) An adequate sanitary waste disposal system shall have been approved by the health official. Where use of a septic system is proposed, such approval shall include a reserve drainfield capable of meeting one hundred (100%) percent of the septic requirements of the development for which the parcel is approved by the health official. The area set aside for septic drainfield use shall be clearly shown on the certified plat submitted to the agent for approval, and the plat shall contain a notation that the area so indicated shall remain open and available for use as a septic drainfield. A copy of said septic permit or certification letter shall be submitted to the agent prior to approval of the requested division. If the division involves a residence on either the lot to be divided or the residue parcel, and that residence was constructed after November 14, 1990, when the County enacted the one hundred (100%) septic reserve requirements for divisions, that residence shall also be required to have one hundred (100%) percent septic reserve area. Evidence of that reserve area shall be submitted to the agent prior to approval of the requested division. Such

approval shall not be required when (a) the proposed parcel will be served by a community sewerage system with adequate capacity; or (b) a parcel of five (5) acres or more when the deed contains language stating that the parcel has not received approval for sanitary waste disposal and that such approval shall be obtained prior to the issuance of building permits for structures requiring such sanitary waste facilities.

(8) If there is an existing septic system on the parcel to be created or on a residual parcel containing less than five (5) acres, there shall be a statement on the plat giving the date of the septic system operation permit.

(9) No division of land shall be approved which would allow the new parcel to be served by pit privies. Additionally, if the parent tract is served by a pit privy, no divisions of land shall be approved from that parent tract until such time as an approved septic drainfield with one hundred (100) percent reserve area has been obtained and said drainfield installed to serve the parent tract and the agent has been provided with an operation permit issued by the health official for the newly installed system.

(d) Transfers by inheritance or court order.

(1) The division of land by the Circuit Court of Rockingham County in a decree of divorce or an order in a partition suit in which each of the parties is an owner by inheritance, or a partitioning of land by parties each of whom is an owner by inheritance, shall be exempt from the provisions of this chapter; provided, however, that each of the resulting parcels front on a state maintained road or has adequate access to a state maintained road over a recorded right-of-way. A copy of such order, a copy of the probated will conveying such property, or a copy of a duly filed list of heirs shall be submitted to the agent.

(2) Notwithstanding the provisions of subparagraph (d)(1) above, requiring each owner to be an owner by inheritance, if one (1) or more of the parties to the partition suit, or one (1) or more of the parties to the partition deed, acquired his interest by conveyance, such ownership shall not impair the exemption provided under said subparagraph, provided such conveyance does not increase the number of owners seeking a partition beyond the number of owners created by inheritance.

(3) For the purpose of this subsection, "inheritance" means transfer of property by will or intestate succession.

(e) Reserved.

(f) Divisions for deeds of trust. The agent may permit a division of land conveying a parcel in trust for the

sole purpose of securing an indebtedness to a regulated commercial lender. Only one (1) such division of any parcel identified by a separate tax map number shall be permitted at any time. In the event of default, the holder of the note secured by the deed of trust shall have authority to enforce the lien of such deed of trust in any manner permitted by the laws of the Commonwealth of Virginia.

- (1) Prior to recordation, the plat shall be submitted for approval to the subdivision agent, and such approval shall indicate that the execution and delivery of the deed of trust does not violate any requirements of the county's zoning ordinance. In its title, the plat shall state that the conveyance is for deed of trust purposes.
- (2) The landowner shall obtain a separate tax map designation and tax billing from the commissioner of the revenue and notify the commissioner of the revenue and the subdivision agent upon the satisfaction and release of any such deed of trust. The tax map designation for a division under this paragraph (f) shall be the tax map designation of the parent tract with the suffix "dt" added to it.
- (3) A division of land approved under this paragraph (f) shall not constitute a subdivision of land until there is a conveyance by or to the holder of the note or its trustees and only upon default.
- (4) Any such conveyance by or to the holder of the note or its trustee shall be reported, before recordation, to the subdivision agent; and no subsequent division of the land so conveyed or of the parent tract shall be permitted under paragraph (b) of this section 16-9 until the waiting period of five (5) years has been satisfied.

(P.C. Ord. No. 5-87, (part), 4-22-87; P.C. Ord. No. 8-87, 8-12-87; P.C. Ord. No. 15-90, 11-14-90; P.C. Ord. No. 2-91, 3-27-91; P.C. Ord. No. 10-92, 6-24-92; P.C. Ord. No. 19-92, 10-28-92; P.C. Ord. No. 27-92, 12-16-92; P.C. Ord. No. 28-92, §§ 1, 2, 4, 12-16-92; P.C. Ord. No. 13-93, 11-10-93; P.C. Ord. No. 95-7, 5-24-95; P.C. Ord. No. 95-8, 5-24-95; P.C. Ord. No. 96-15, 9-25-96; P.C. Ord. No. 97-6, 4-23-97; P.C. Ord. No. 97-12, 7-23-97; P.C. Ord. No. 97-13, 7-23-97; P.C. Ord. No. 98-11, 9-23-98, P.C. Ord. No. 04-06, 6-23-04))

Sec. 16-9.1. Same--Deed and plat required.

A deed accurately describing the parcel to be divided, and with each deed the original and one copy of a plat prepared by a certified land surveyor licensed by the Commonwealth of Virginia, showing a division of land shall be submitted for approval prior to recordation. The plat shall include, at a minimum, the following as to the divided parcel and as to the residual parcel if it is less than five (5) acres:

- (a) That the plat meets the standard for plats as adopted under §42.1-82 of the Virginia Public Records Act or any successor statute thereto;
- (b) In the first line of its title, in lettering that is at least as large and at least as heavy as any other lettering on the plat, that the resulting parcel is being divided from a larger tract;
- (c) The tax map identification number of each tract involved in the division and each adjoining parcel;
- (d) The current zoning;
- (e) A north arrow;
- (f) The date of preparation;
- (g) If the division creates a residual parcel of less than five (5) acres, both parcels shall be surveyed and shown on the plat except with regard to the residual parcel of less than five acres, if the plat is based on a previous plat, the surveyor shall provide a reference to the date and recording information of the previous plat and a statement that an actual field survey of the residual parcel was not made;
- (h) The plat shall also include a vicinity sketch map at a scale of one (1) inch equals two thousand (2,000) feet;
- (i) A statement of the floodplain designation shall be included with the 100-year floodplain boundary being shown on the plat within the lot boundaries in the event any portion of the parcel falls within the 100-year floodplain. Where applicable, the floodway shall be shown with a statement that this is according to the FIRM maps. If there is no floodplain, the surveyor shall include a statement of such on the plat;
- (j) Identification of any grave, object or structure marking a place of human burial located on the tract or parcel of land to be divided;
 - (k) The location, size, and setbacks of all structures on both parcels within 35 feet of the new property line. All poultry houses shall be 150 feet from the new property line except poultry houses may be reduced up to 75 feet from the new property line with notarized consent of the adjoining landowner; The plat shall also show any dwellings on the parcel being conveyed by the transfer and the dwellings remaining on the parent tract or shall include a statement of the number of dwelling units on land being transferred, number of dwelling units on the parcel to which such tract is being joined (if an adjoining transfer), and the number of dwelling units on the residual parcel.
- (l) On newly divided parcels with an existing septic and drainfield on the parcel being divided and/or

on residue parcels of less than five (5) acres, if the septic was installed prior to November 14, 1990, surveyor may put a statement to that effect on the plat. However, if the septic was installed after November 14, 1990, the septic and 100% reserve area shall be shown as approved by the Health Department.

- (m) Setback line at point where parcel first meets the minimum required setback width; and
- (n) Street name, state route number and road width shall be shown for any state-maintained road that is shown on the plat.
- (o) Any rights-of-way providing access across subject property that serve either this property or adjoining properties.

(P.C. Ord. No. 5-87, (part), 4-22-87; P.C. Ord. No. 2-91, 3-27-91; P.C. Ord. No. 28-92, § 3, 12-16-92; P.C. Ord. No. 8-93, 8-25-93; P.C. Ord. No. 04-06, 6-23-04)

Sec. 17-72. Final plan review.

(a) Final plan application. Following the establishment of a residential planned community by approval of the board of supervisors of a master plan, thereof, the applicant shall furnish to the Department of Community Development ten (10) copies of a final plan. The final plan shall be prepared or certified by a surveyor, engineer, or architect.

(b) Final plan requirements. The final plan shall contain in final form for a part, a section, or for the whole project area, the information required in the master plan and in supporting documentation and plans as required in sections 17-66(b)(1) and (5). In addition to considering the design requirements of this district, the final plan shall meet the applicable requirements and procedure of the site plan ordinance Sec 17-206 and/or Chapter 16 Subdivision Ordinance.

- (c) Phasing plan. If the project area is to be developed in stages, a phasing plan shall be submitted with the final plan. The phasing plan shall delineate the areas to be developed in each phase and the approximate development schedule of each phase;
- (d) Deed of dedication. The applicant shall furnish with a final plan a proposed deed of dedication including restrictions safeguarding the permanent use of open areas shown on the master plan and contained within the area of the final plan for the purpose of preventing encroachment thereupon. The applicant shall furnish simultaneously with, or prior to, approval of any final plan, a deed or deeds without consideration to any land within its area determined by the board of supervisors

to be reasonably required for the particular community for public school purposes;

(e) Compliance with master plan. The final plan shall be in substantial compliance with the approved master plan but may vary from it to any degree which the Director of Community Development and/or planning commission believes does not vary the basic concept or character of the development;

(f) Final plan approval. Should there be no subdivision lot lines proposed on the final plan, an acceptable performance bond shall be furnished by the developer or applicant for the purpose of securing all improvements proposed on the final plan prior to approval of the final plan by the Department of Community Development. When the final plan or deed of dedication shall have been approved by the Department of Community Development—as being in conformity with this district and the master plan as approved by the board of supervisors, the final plan or deed of dedication shall be approved for the purpose of obtaining building permits. The Department of Community Development may at any time refer the Final Plan to the planning commission for final review and approval. Any person aggrieved by a decision of the Department of Community Development may appeal said decision to the county administrator within ten (10) days after the department's decision. Should there be subdivision lot lines proposed on the approved final plan, platting shall comply with platting requirements for final plats in chapter 16 of this code. Before any final plat is approved, an acceptable performance bond shall be furnished by the developer or subdivider for the purpose of securing all improvements on the final plat.

ORDINANCE TO AMEND CHAPTER 16
(SUBDIVISION ORDINANCE) OF
THE ROCKINGHAM COUNTY CODE

AMEND:

Sec. 16-9. Exceptions to subdivision.

The agent may permit divisions of land into two (2) parcels as set forth below when the resultant parcels conform to the Chapter 17 (Zoning Ordinance) requirements of the zoning district in which the parcels are located and when such divisions do not circumvent the intent of this chapter as stated in section 16-2. Minimum lot size in agriculturally zoned districts shall be one (1) acre except in A-2 if the property is served by public sewer, the minimum lot size shall be 20,000 square feet, and the newly created parcel shall be connected to the public sewer. In the RS-1 district, the minimum lot size shall be 20,000

square feet. When the proposed division would create a residual parcel of less than five (5) acres, the residual parcel shall meet the access, health and safety standards as set out in this chapter. No divisions of land shall be approved that would make a lot nonconforming or which would make an already nonconforming lot more nonconforming.

(a) Adjoining transfers or lot consolidations.

- (1) The agent may permit a division conveying a portion of land to an immediately adjoining property owner or consolidating contiguous parcels owned by the same property owner provided the following requirements are met.
 - (A) A proposed adjoining transfer or lot consolidation located within an approved subdivision as described in Section 16-48 must meet the requirements of that section.
 - (B) The deed submitted to the agent for approval shall contain language stating:
 1. "This conveyance is an adjoining land transfer. The recordation of this deed in accordance with the subdivision regulations of Rockingham County shall operate to vacate the common property line shared by the tract to be conveyed and the tract to which it is an adjoining transfer."
 2. "Land obtained through an adjoining transfer may not be reconveyed as a separate parcel, nor may it be included as a portion of a parcel to be divided from the combined parcel created by the adjoining transfer as described in 16-9(a)(1) above for a period of five (5) years in the A-1 district or three (3) years in the A-2 district, except that land obtained through an adjoining transfer may be conveyed through another adjoining transfer without meeting the above-required waiting period".
 - (C) The plat accompanying the deed submitted to the agent shall include the following:
 1. The plat shall contain language stating "this conveyance is an adjoining transfer and the combined parcels shall be treated as one parcel for zoning and subdivision purposes.
 2. The property line to be vacated shall be indicated on the plat by a broken line, identified with the words "property line hereby vacated" printed beside the vacated line.

(b) Non-family divisions:

In the agriculturally zoned districts and the Rural Service (RS-1) District the agent may permit one division of a parcel into two (2) parcels with the following stipulations:

(1) Prime Agricultural (A-1) District

- (a) On parcels of land that are greater than 40 acres, one non-family division shall be permitted every five (5) years except as permitted under Section 16-9(b)(1)(h) in accordance with Section 16-9(b)(1)(c). However, either the parent parcel or the newly created parcel shall be at least 40 acres and shall not be reduced below 40 acres. If the newly created parcel is 40 acres, and the parent tract becomes less than 40 acres, there shall be no further non-family division rights of the parent tract.
- (b) On parcels of 40 acres or less created after August 23, 2004, there shall be no non-family divisions permitted except as permitted under Section 16-9(b)(1)(h). The deed shall contain language stating that no further non-family divisions shall be permitted.
- (c) A special use permit for a residence has been approved on any parcel that is not improved with a residence. This would include either the newly divided parcel or the parent tract.
- (d) The parent tract shall not have been the subject of a previous division under paragraph (b) or (c) of this section 16-9 within the last five (5) years.
- (e) Adequate road access shall be provided for each resulting parcel as approved by the highway engineer. If the parcel has insufficient frontage along a state-maintained road a right-of-way meeting the requirements of either section A or B below shall be provided to serve the divided parcels. Any right-of-way created shall meet the sight distance requirements of the VDOT Minimum Standards of Entrance to State Highways. VDOT must notify the Agent in writing of sight distance approval in order for the division to be approved.
 - (A) Fifty (50) foot right-of-way meeting the following standards.
 - (1) There may be an unlimited number of parcels on a right-of-way meeting one of the following standards:
 - (a) If the fifty (50) foot right-of-way is planned to be developed currently or in the future for acceptance into the state secondary highway system, the right-of-way shall be constructed to meet the geometric requirements established by VDOT's Subdivision Street Requirements.
 - (b) If the right-of-way is planned to be developed without acceptance into the state secondary highway system, the right-of-way shall meet minimum

fire protection requirements as promulgated by the Fire Chief. A "private street connection" shall be constructed to any connecting VDOT maintained street in accordance with Standard Private Subdivision Road/Street Entrance of the VDOT Minimum Standards of Entrances to State Highways. In the event there are no future plans to take the rights-of way into the state secondary highway system for maintenance, language shall be included in the deeds of all affected parcels indicating that no request will be made of the county or VDOT to take the right-of way into the state secondary highway system until all requirements of VDOT's Subdivision Street Requirements are met.

(2) No right-of-way grade shall exceed a ten (10%) percent maximum unless an exception is made due to terrain or other mitigating circumstances in which case the grade shall be approved by VDOT and the fire chief.

(3) Entrance approval shall be submitted to the agent prior to approval of the requested division. If VDOT approves the use of an existing fifty (50) foot entrance, the agent shall receive a letter from the highway engineer stating the existing entrance is adequate for the additional division and stipulating any improvement required by VDOT for use of the entrance. The property shall be served by the entrance shown on the plat accompanying the deed approved by the agent. If the division involves a new entrance or upgrades to the existing entrance, no certificates of occupancy shall be issued by the County until the agent receives verification from VDOT that the entrance work has been completed.

(B) Twenty (20) foot right-of-way meeting the following standards.

(1) There shall be no more than two (2) parcels per right-of-way.

(2) If a division is requested that would increase the number of parcels on a right-of-way to more than two (2), the right-of-way must be improved to meet the requirements of Section 16-9(b)(1)(d)(A).

(3) Entrance approval shall be submitted to the agent prior to approval of the

requested division. If VDOT approves the use of an existing twenty (20) foot entrance, the agent must receive a letter from the highway engineer stating the existing entrance is adequate for the additional division and stipulating any improvement required by VDOT for use of the entrance. The property shall be served by the entrance shown on the plat accompanying the deed approved by the agent. If the division involves a new entrance or upgrades to the existing entrance, no certificates of occupancy shall be issued by the County until the agent receives verification from VDOT that the entrance work has been completed.

- (f) An adequate sanitary waste disposal system shall have been approved by the health official. Where use of a septic system is proposed, such approval shall include a reserve drainfield capable of meeting one hundred (100%) percent of the septic requirements of the development for which the parcel is approved by the health official. The area set aside for septic drainfield use shall be clearly shown on the certified plat submitted to the agent for approval, and the plat shall contain a notation that the area so indicated shall remain open and available for use as a septic drainfield. A copy of said septic permit or certification letter shall be submitted to the agent prior to approval of the requested division. If the division involves a residence on either the lot to be divided or the residue parcel, and that residence was constructed after November 14, 1990, when the County enacted the one hundred (100%) percent septic reserve requirement for divisions, that residence shall also be required to have one hundred (100%) percent septic reserve area. Evidence of that reserve area shall be submitted to the agent prior to approval of the new division. Such approval shall not be required when (a) the proposed parcel will be served by a community sewerage system with adequate capacity; or (b) a parcel of five (5) acres or more when the deed contains language stating that the parcel has not received approval for sanitary waste disposal and that such approval shall be obtained prior to the issuance of building permits for structures requiring such sanitary waste facilities.
- (g) No division of land shall be approved which would allow the new parcel to be served by pit privies. Additionally, if the parent tract is served by a pit privy, no divisions of land shall be approved from that parent tract until such time as an approved septic drainfield

permit with one hundred (100) percent reserve area has been obtained and said drainfield installed to serve the parent tract and the agent has been provided with an operation permit issued by the health official for the newly installed system.

- (h) If there is an existing septic system on the parcel to be created or on a residual parcel containing less than five (5) acres, there shall be a statement on the plat giving the date of the septic system operation permit.
- (i) A one time only grantor to self division from the larger tract that had its own tax parcel number as of August 23, 2004 shall be permitted. A one time only division means that when a division is permitted under this 16-9(1)(h), no further grantor to self divisions shall be permitted on the subject parcel or on any other parcel owned by the grantor. The residual and resulting parcels must meet all other requirements of this section.

(2) General Agricultural (A-2) District

- (a) Any parcels of 6 acres or less created after August 23, 2004 shall have no further non-family division rights. The deed shall contain language stating that no further non-family divisions shall be permitted.
- (b) The parent tract shall not have been the subject of a previous division under paragraph (b) or (c) of this section 16-9 within the last three (3) years.
- (c) Adequate road access shall be provided for each resulting parcel as approved by the highway engineer. If the parcel has insufficient frontage along a state-maintained road a right-of-way meeting either section A or B below shall be provided to serve the divided parcels. Any right-of-way created shall meet the sight distance requirements of the VDOT Minimum Standards of Entrance to State Highways. VDOT must notify the agent in writing of sight distance approval in order for the division to be approved.
 - (A) Fifty (50) foot right-of-way meeting the following standards.
 - (1) There may be an unlimited number of parcels on a right-of-way meeting one of the following standards:
 - (a) If the fifty (50) foot right-of-way is planned to be developed currently or in the future for acceptance into the state secondary highway system, the right-of-way shall be constructed to meet the geometric requirements established by VDOT's Subdivision Street Requirements.

- (b) If the right-of-way is planned to be developed without acceptance into the state secondary highway system, the right-of-way shall meet minimum fire protection requirements as promulgated by the Fire Chief. A "private street connection" shall be constructed to any connecting VDOT maintained street in accordance with Standard Private Subdivision Road/Street Entrance of the VDOT Minimum Standards of Entrances to State Highways. In the event there are no future plans to take the rights-of way into the state secondary highway
- (2) No right-of-way grade shall exceed a ten (10%) percent maximum unless an exception is made due to terrain or other mitigating circumstances in which case the grade shall be approved by VDOT and the fire chief.
- (3) Entrance approval shall be submitted to the agent prior to approval of the requested division. If VDOT approves the use of an existing fifty (50) foot entrance, the agent shall receive a letter from the highway engineer stating the existing entrance is adequate for the additional division and stipulating any improvement required by VDOT for use of the entrance. The property shall be served by the entrance shown on the plat accompanying the deed approved by the agent. If the division involves a new entrance or upgrades to the existing entrance, no certificates of occupancy shall be issued by the County until the agent receives verification from VDOT that the entrance work has been completed.
- (d) An adequate sanitary waste disposal system shall have been approved by the health official. Where use of a septic system is proposed, such approval shall include a reserve drainfield capable of meeting one hundred (100%) percent of the septic requirements of the development for which the parcel is approved by the health official. The area set aside for septic drainfield use shall be clearly shown on the certified plat submitted to the agent for approval, and the plat shall contain a notation that the area so indicated shall remain open and available for use as a septic drainfield. A copy of said septic permit or certification letter shall be submitted to the agent prior to approval of the requested division. If the division involves a residence

on either the lot to be divided or the residue parcel, and that residence was constructed after November 14, 1990, when the County enacted the one hundred (100%) percent septic reserve requirement for divisions, that residence shall also be required to have one hundred (100%) percent septic reserve area. Evidence of that reserve area shall be submitted to the agent prior to approval of the new division. Such approval shall not be required when (a) the proposed parcel will be served by a community sewerage system with adequate capacity; or (b) a parcel of five (5) acres or more when the deed contains language stating that the parcel has not received approval for sanitary waste disposal and that such approval shall be obtained prior to the issuance of building permits for structures requiring such sanitary waste facilities.

- (e) No division of land shall be approved which would allow the new parcel to be served by pit privies. Additionally, if the parent tract is served by a pit privy, no divisions of land shall be approved from that parent tract until such time as an approved septic drainfield permit with one hundred (100) percent reserve area has been obtained and said drainfield installed to serve the parent tract and the agent has been provided with an operation permit issued by the health official for the newly installed system.
- (f) If there is an existing septic system on the parcel to be created or on a residual parcel containing less than five (5) acres, there shall be a statement on the plat giving the date of the septic system operation permit.
- (g) A one time only grantor to self division from the larger tract that had its own tax parcel number as of August 23, 2004 shall be permitted. A one time only division means that when a division is permitted under this 16-9(2)(g), no further grantor to self divisions shall be permitted on the subject parcel or on any other parcel owned by the grantor. The residual and resulting parcels must meet all other requirements of this section.

(3) Rural Service (RS-1) District

- (a) Any parcels of 6 acres or less created after August 23, 2004 shall have no further non-family division rights. The deed shall contain language stating that no further non-family divisions shall be permitted.
- (b) The parent tract shall not have been the subject of a previous division under paragraph (b) or (c) of this section 16-9 within the last three (3) years.

(c) Adequate road access shall be provided for each resulting parcel as approved by the highway engineer. If the parcel has insufficient frontage along a state-maintained road a right-of-way meeting either section A or B below shall be provided to serve the divided parcels. Any right-of-way created shall meet the sight distance requirements of the VDOT Minimum Standards of Entrance to State Highways. VDOT must notify the agent in writing of sight distance approval in order for the division to be approved.

(A) Fifty (50) foot right-of-way meeting the following standards.

(1) There may be an unlimited number of parcels on a right-of-way meeting one of the following standards:

(a) If the fifty (50) foot right-of-way is planned to be developed currently or in the future for acceptance into the state secondary highway system, the right-of-way shall be constructed to meet the geometric requirements established by VDOT's Subdivision Street Requirements.

(b) If the right-of-way is planned to be developed without acceptance into the state secondary highway system, the right-of-way shall meet minimum fire protection requirements as promulgated by the Fire Chief. A "private street connection" shall be constructed to any connecting VDOT maintained street in accordance with Standard Private Subdivision Road/Street Entrance of the VDOT Minimum Standards of Entrances to State Highways. In the event there are no future plans to take the rights-of way into the state secondary highway

(2) No right-of-way grade shall exceed a ten (10%) percent maximum unless an exception is made due to terrain or other mitigating circumstances in which case the grade shall be approved by VDOT and the fire chief.

(3) Entrance approval shall be submitted to the agent prior to approval of the requested division. If VDOT approves the use of an existing fifty (50) foot entrance, the agent shall receive a letter from the highway engineer stating the existing entrance is adequate for the additional division and stipulating any improvement required by VDOT for use of the entrance. The property shall be

served by the entrance shown on the plat accompanying the deed approved by the agent. If the division involves a new entrance or upgrades to the existing entrance, no certificates of occupancy shall be issued by the County until the agent receives verification from VDOT that the entrance work has been completed.

(B) Twenty (20) foot right-of-way meeting the following standards.

(1) There shall be no more than two (2) parcels per right-of-way.

(2) If a division is requested that would increase the number of parcels on a right-of-way to more than two (2), the right-of-way must be improved to meet the requirements of Section 16-9(b)(2)(d)(A).

(3) Entrance approval shall be submitted to the agent prior to approval of the requested division. If VDOT approves the use of an existing twenty (20) foot entrance, the agent shall receive a letter from the highway engineer stating the existing entrance is adequate for the additional division and stipulating any improvement required by VDOT for use of the entrance. The property shall be served by the entrance shown on the plat accompanying the deed approved by the agent. If the division involves a new entrance or upgrades to the existing entrance, no certificates of occupancy shall be issued by the County until the agent receives verification from VDOT that the entrance work has been completed.

(d) An adequate sanitary waste disposal system shall have been approved by the health official. Where use of a septic system is proposed, such approval shall include a reserve drainfield capable of meeting one hundred (100%) percent of the septic requirements of the development for which the parcel is approved by the health official. The area set aside for septic drainfield use shall be clearly shown on the certified plat submitted to the agent for approval, and the plat shall contain a notation that the area so indicated shall remain open and available for use as a septic drainfield. A copy of said septic permit or certification letter shall be submitted to the agent prior to approval of the requested division. If the division involves a residence on either the lot to be divided or the residue parcel, and that residence was constructed after November 14, 1990, when the County enacted the one hundred (100%) percent septic

reserve requirement for divisions, that residence shall also be required to have one hundred (100%) percent septic reserve area. Evidence of that reserve area shall be submitted to the agent prior to approval of the new division. Such approval shall not be required when (a) the proposed parcel will be served by a community sewerage system with adequate capacity; or (b) a parcel of five (5) acres or more when the deed contains language stating that the parcel has not received approval for sanitary waste disposal and that such approval shall be obtained prior to the issuance of building permits for structures requiring such sanitary waste facilities.

- (e) No division of land shall be approved which would allow the new parcel to be served by pit privies. Additionally, if the parent tract is served by a pit privy, no divisions of land shall be approved from that parent tract until such time as an approved septic drainfield permit with one hundred (100) percent reserve area has been obtained and said drainfield installed to serve the parent tract and the agent has been provided with an operation permit issued by the health official for the newly installed system.
- (f) If there is an existing septic system on the parcel to be created or on a residual parcel containing less than five (5) acres, there shall be a statement on the plat giving the date of the septic system operation permit.
- (g) A one time only grantor to self division from the larger tract that had its own tax parcel number as of August 23, 2004 shall be permitted. A one time only division means that when a division is permitted under this 16-9(3)(g), no further grantor to self divisions shall be permitted on the subject parcel or on any other parcel owned by the grantor. The residual and resulting parcels must meet all other requirements of this section.

All other requirements of this section shall be met.

(c) Family divisions.

In the agriculturally zoned districts and in the Rural Service (RS-1) District a single parcel of land may be divided for conveyance to an immediate family member, provided that the grantee has not previously received any land from an immediate family member under the provisions of this section 16-9(c). An immediate family member is a natural or legally defined child, grandchild, parent, grandparent, or sibling of the grantor. If the property owner is a limited liability company whose membership consists entirely of members of an immediate family, the limited liability company may divide the lot or parcel for the purpose of sale or gift to its members in accordance with this subsection. There shall be no division approved

under this paragraph (c) that is determined by the Agent to be an attempt to circumvent the intent of either Chapter 16 (subdivision), as stated in Section 16-2, or Chapter 17 (zoning), including but not limited to any attempt by the grantor to further develop land approved under this paragraph for the benefit of any party other than the grantee or profit motivated divisions for short-term investment purposes. Divisions of land made under the provisions of this paragraph (c) shall be subject to the following requirements:

- (1) Divisions under this section 16-9(c) shall not be subject to the waiting periods set forth in section 16-9(b) of this code;
- (2) In the A-1 District any parcel of forty (40) acres or less created under this section 16-9(c) after August 23, 2004 shall have no non-family division rights under section 16-9(b). The deed shall contain language stating that no non-family divisions shall be permitted.
- (3) In the A-2 District any parcel of six (6) acres or less created under this section 16-9(c) after August 23, 2004 shall have no non-family division rights under section 16-9(b). The deed shall contain language stating that no non-family divisions shall be permitted.
- (4) Each deed submitted to the agent for approval shall be accompanied by a notarized affidavit stating that the grantee has not received any prior conveyance of land under the provisions of this section 16-9(c).
- (5) The deed and plat submitted to the agent for approval shall contain language stating that the conveyance is a family division and specifying the relationship between the grantor and grantee. The deed shall also contain language stating that the land being conveyed may not be reconveyed for a period of three (3) years, from the date on which the agent approves the division except there shall be no waiting period if the parcel or a portion of the parcel obtained through this section 16-9(c) is conveyed as an adjoining transfer. Notwithstanding provisions to the contrary, this subparagraph 16-9(c)(5) shall not prohibit a foreclosure or judicial sale, or an encumbrance with a deed of trust or mortgage, or a sale and transfer of such parcel in case of a foreclosure under a deed of trust or mortgage.
- (6) Adequate road access shall be provided for each resulting parcel as approved by the highway engineer. If the parcel has insufficient frontage along a state maintained road, a right-of-way meeting either section A or B below shall be provided to serve the divided parcels. Any right-of-way created shall meet the sight distance requirements of the VDOT Minimum Standards of Entrance to State Highways. VDOT must notify the

Agent in writing of sight distance approval in order for the division to be approved.

A. Fifty (50) foot right-of-way meeting the following standards.

- (1) There may be an unlimited number of parcels on a right-of-way meeting one of the following standards:
 - (a) If the fifty (50) foot right-of-way is planned to be developed currently or in the future for acceptance into the state secondary highway system, the right-of-way shall be constructed to meet the geometric requirements established by VDOT's Subdivision Street Requirements.
 - (b) If the right-of-way is planned to be developed without acceptance into the state secondary highway system, the street shall meet minimum fire protection requirements as promulgated by the Fire Chief. A "private street connection" shall be constructed to any connecting VDOT maintained street in accordance with Standard Private Subdivision Road/Street Entrance of the VDOT Minimum Standards of Entrances to State Highways. In the event there are no future plans to take the rights-of-way into the state secondary highway system for maintenance, language shall be included in the deeds of all affected parcels indicating that no request will be made of the county of VDOT to take the right-of-way into the state secondary highway system until all requirements of VDOT's Subdivision Street Requirements are met.
- (2) No right-of-way grade shall exceed a ten (10%) percent maximum unless an exception is made due to terrain or other mitigating circumstances in which case the grade shall be approved by VDOT and the fire chief.
- (3) Entrance permits shall be submitted to the agent prior to approval of the requested division. If VDOT approves the use of an existing fifty (50) foot entrance, the agent shall receive a letter from the highway engineer stating the existing entrance is adequate for the additional division and stipulating any improvement required by VDOT for use of the entrance. The property shall be served by the entrance shown on the plat accompanying the deed approved by the agent. If the division involves a new entrance or upgrades to the existing

entrance, no certificates of occupancy shall be issued by the county until the agent receives verification from VDOT that the entrance work has been completed.

(B) Twenty (20) foot right-of-way meeting the following standards.

(1) Divisions of land under this Section 16-9(c)(6)(B) shall be exempt from the number of parcels on a right-of-way and any division under this section that increases the number of parcels to more than two shall not be required to improve the right-of-way to meet the requirements of Section 16-9(c)(6)(A).

(2) Entrance permits shall be submitted to the agent prior to approval of the requested division. If VDOT approves the use of an existing twenty (20) foot entrance, the agent must receive a letter from the highway engineer stating the existing entrance is adequate for the additional division and stipulating any improvements required by VDOT for use of the entrance. The property shall be served by the entrance shown on the plat accompanying the deed approved by the agent. If the division involves a new entrance or upgrades to the existing entrance, no certificates of occupancy shall be issued by the County until such time as the agent receives verification from VDOT that the entrance work has been completed.

(7) An adequate sanitary waste disposal system shall have been approved by the health official. Where use of a septic system is proposed, such approval shall include a reserve drainfield capable of meeting one hundred (100%) percent of the septic requirements of the development for which the parcel is approved by the health official. The area set aside for septic drainfield use shall be clearly shown on the certified plat submitted to the agent for approval, and the plat shall contain a notation that the area so indicated shall remain open and available for use as a septic drainfield. A copy of said septic permit or certification letter shall be submitted to the agent prior to approval of the requested division. If the division involves a residence on either the lot to be divided or the residue parcel, and that residence was constructed after November 14, 1990, when the County enacted the one hundred (100%) septic reserve requirements for divisions, that residence shall also be required to have one hundred (100%) percent septic reserve area. Evidence of that reserve area shall be submitted to the agent prior to approval of the requested division. Such

approval shall not be required when (a) the proposed parcel will be served by a community sewerage system with adequate capacity; or (b) a parcel of five (5) acres or more when the deed contains language stating that the parcel has not received approval for sanitary waste disposal and that such approval shall be obtained prior to the issuance of building permits for structures requiring such sanitary waste facilities.

(8) If there is an existing septic system on the parcel to be created or on a residual parcel containing less than five (5) acres, there shall be a statement on the plat giving the date of the septic system operation permit.

(9) No division of land shall be approved which would allow the new parcel to be served by pit privies. Additionally, if the parent tract is served by a pit privy, no divisions of land shall be approved from that parent tract until such time as an approved septic drainfield with one hundred (100) percent reserve area has been obtained and said drainfield installed to serve the parent tract and the agent has been provided with an operation permit issued by the health official for the newly installed system.

(d) Transfers by inheritance or court order.

(1) The division of land by the Circuit Court of Rockingham County in a decree of divorce or an order in a partition suit in which each of the parties is an owner by inheritance, or a partitioning of land by parties each of whom is an owner by inheritance, shall be exempt from the provisions of this chapter; provided, however, that each of the resulting parcels front on a state maintained road or has adequate access to a state maintained road over a recorded right-of-way. A copy of such order, a copy of the probated will conveying such property, or a copy of a duly filed list of heirs shall be submitted to the agent.

(2) Notwithstanding the provisions of subparagraph (d)(1) above, requiring each owner to be an owner by inheritance, if one (1) or more of the parties to the partition suit, or one (1) or more of the parties to the partition deed, acquired his interest by conveyance, such ownership shall not impair the exemption provided under said subparagraph, provided such conveyance does not increase the number of owners seeking a partition beyond the number of owners created by inheritance.

(3) For the purpose of this subsection, "inheritance" means transfer of property by will or intestate succession.

(e) Reserved.

(f) Divisions for deeds of trust. The agent may permit a division of land conveying a parcel in trust for the

sole purpose of securing an indebtedness to a regulated commercial lender. Only one (1) such division of any parcel identified by a separate tax map number shall be permitted at any time. In the event of default, the holder of the note secured by the deed of trust shall have authority to enforce the lien of such deed of trust in any manner permitted by the laws of the Commonwealth of Virginia.

- (1) Prior to recordation, the plat shall be submitted for approval to the subdivision agent, and such approval shall indicate that the execution and delivery of the deed of trust does not violate any requirements of the county's zoning ordinance. In its title, the plat shall state that the conveyance is for deed of trust purposes.
- (2) The landowner shall obtain a separate tax map designation and tax billing from the commissioner of the revenue and notify the commissioner of the revenue and the subdivision agent upon the satisfaction and release of any such deed of trust. The tax map designation for a division under this paragraph (f) shall be the tax map designation of the parent tract with the suffix "dt" added to it.
- (3) A division of land approved under this paragraph (f) shall not constitute a subdivision of land until there is a conveyance by or to the holder of the note or its trustees and only upon default.
- (4) Any such conveyance by or to the holder of the note or its trustee shall be reported, before recordation, to the subdivision agent; and no subsequent division of the land so conveyed or of the parent tract shall be permitted under paragraph (b) of this section 16-9 until the waiting period of five (5) years has been satisfied.

(P.C. Ord. No. 5-87, (part), 4-22-87; P.C. Ord. No. 8-87, 8-12-87; P.C. Ord. No. 15-90, 11-14-90; P.C. Ord. No. 2-91, 3-27-91; P.C. Ord. No. 10-92, 6-24-92; P.C. Ord. No. 19-92, 10-28-92; P.C. Ord. No. 27-92, 12-16-92; P.C. Ord. No. 28-92, §§ 1, 2, 4, 12-16-92; P.C. Ord. No. 13-93, 11-10-93; P.C. Ord. No. 95-7, 5-24-95; P.C. Ord. No. 95-8, 5-24-95; P.C. Ord. No. 96-15, 9-25-96; P.C. Ord. No. 97-6, 4-23-97; P.C. Ord. No. 97-12, 7-23-97; P.C. Ord. No. 97-13, 7-23-97; P.C. Ord. No. 98-11, 9-23-98, P.C. Ord. No. 04-06, 6-23-04))

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RECESS.

At 9:21 p.m., Chairman Cuevas declared the Board of Supervisors Regular Meeting recessed for a Recessed Meeting of the Board of Directors of the Countryside Sanitary District.

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CALL TO ORDER.

At 9:23 p.m., Chairman Cuevas called the meeting back to order.

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CLOSED MEETING.

On motion by Supervisor Breeden, seconded by Supervisor Ahrend and carried by the following vote: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; and KYGER - AYE; the Board recessed the meeting from 9:24 p.m. to 10:15 p.m. for a closed meeting pursuant to Section 2.2-3711(3) *Virginia State Code*, Acquisition of Real Property for a Public Purpose; Section 2.2-3711(A)5, Discussion of a Prospective Business; and Section 2.2-3711(A)7, Consultation with Legal Counsel.

At 10:15 p.m., Chairman Cuevas called the meeting back to order and the following motion was adopted.

MOTION: SUPERVISOR KYGER RESOLUTION NO: X05-04
SECOND: SUPERVISOR FLOYD MEETING DATE: MAY 25, 2005

CERTIFICATION OF CLOSED MEETING

WHEREAS, the Rockingham County Board of Supervisors has convened a Closed Meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of The Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3712 of the Code of Virginia requires a certification by this Board of Supervisors that such Closed Meeting was conducted in conformity with Virginia law;

NOW, THEREFORE, BE IT RESOLVED that the Rockingham County Board of Supervisors hereby certifies that, to the best of each member's knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the Closed Meeting to which this certification resolution applies; and (ii) only such public business matters as were identified in the motion convening the Closed Meeting were heard, discussed or considered by the Board of Supervisors.

VOTE:
AYES: AHREND, BREEDEN, CUEVAS, FLOYD, KYGER
NAYS: NONE
ABSENT: NONE

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On motion by Supervisor Kyger, seconded by Supervisor Floyd and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board authorized the County Administrator and County Attorney to execute a non-disclosure agreement related to economic development.

ADJOURNMENT.

By consensus, the Board adjourned the meeting at 10:16 p.m.

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Chairman